# HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WPSS No. 1218/2005

Rizwana Parveen
& others
Vs
Public Service Commission
& others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 30.3.2006

Initial of Judge

**Reserved**

**HIGH COURT OF UTTARANCHAL AT NAINITAL**

Writ Petition No. 1218 of 2005 (SS)

1. Rizwana Parveen d/o Sri H.M. Sabir Hussain
   Typing Institute, Shiv Mandir Marg, Ranikhet
   District Almora
2. Kalpana Patni d/o Sri Bhudhar Datt Patni
   Patini Bhawan, G.I.C. Road Chanmari,
   P.O. Lohaghat, District Champawat ..... Petitioner

Versus

1. Public Service Commission, Uttaranchal
2. Secretary, Public Service Commission,
   Uttaranchal
3. State of Uttaranchal
4. Director of Education, Government
   of Uttaranchal ..... Respondents

Sri H.S. Bisht, Advocate for the petitioner
Sri B.D. Kandpal, Advocate for the respondents no. 1 & 2 and Standing Counsel for respondents no. 3 & 4.

Dated: March 30, 2006

**Hon'ble Rajesh Tandon, J.**

Heard Sri H.S. Bisht counsel for the petitioner and Sri B.D. Kandpal and Standing Counsel, counsel for the respondents.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the orders dated 1.8.2005 and 30.7.2005, annexure-11 and 12 respectively to the writ petition.

According to the petitioners, petitioner no.1 has passed M.A. (History), M.Ed. The petitioner no. 2 has passed M.Sc. (Chemistry) M.Ed. While studying in M.Ed. the petitioners have studied the following subjects:

(i) Education psychology

(ii) Philosophical and Sociological foundation for Education

(iii) Research Methods.

(iv) Technological foundation of Education

(v) Education Technique

The Public Service Commission, Uttaranchal through publication dated 5.10.2003 invited applications for the post of Lecturer in various subjects for Government Inter Colleges (Women Cadre) including five posts of Lecturer (Psychology) of which three were for general category candidates, one for Scheduled caste and remaining one post for O.B.C. candidate. The qualification required for the posts of Lecturer (Psychology) was a post graduate degree in Psychology or any equivalent degree recognized by the Government. The preferential qualification for the posts was L.T. Diploma from a Government or recognized training College or B.Ed. degree from any University in India established by law.

Both the petitioner applied for the post of Lecturer (Psychology) in the Women's cadre of Government Inter Colleges in Uttaranchal. The Public Service Commission allotted roll numbers to the petitioners. Both of them appeared in the written examination. Both the petitioners were declared successful for interview vide result declared on 4.11.2004. Both the petitioners vide letter dated 17.6.2005 were informed by the Uttaranchal Public Service Commission that they are not being

called for the interview as they do not possess the required minimum qualification. The respondents vide representation dated 22.6.2005, informed the authorities that they had passed M.Ed. therefore, they are entitled to be called for interview. Both the petitioners appeared in interview on 7.7.2005 before the Public Service Commission.

The petitioners have submitted that result of the successful candidates was published on 29.7.2005 but the names of the petitioners have not been found place therein. Petitioners vide letter dated 1.8.2005 were informed that they were provisionally allowed in the interview on 7.7.2005 and further that the matter of educational qualification for the post of Lecturer Psychology was duly considered at the level of the Commission in the light of letter dated 26.7.2005 and the provision made under section 2 of Education Department of Government of Uttaranchal and the Uttar Pradesh Special Subordinate (Lecturer Cadre) Service Rules 1992 and that after consideration it was found that the educational qualification of Lecturer Psychology is post graduate in Psychology and also that no qualification other than this is not acceptable. The petitioner no. 1 made a representation on 1.8.2005 to the Public Service Commission, which has not been decided as yet.

It has been submitted in the Counter affidavit by the State of Uttaranchal that the Government of U.P. formulated relevant Service Rules namely U.P. Special Subordinate Education (Lecturers Grade) Service Rules, 1992 and the same are applicable in the State of Uttaranchal. According to such Rules qualification has been prescribed in Rule 8 and appendix-B. According to Appendix-B serial No. 1 for the post of Lecturer in Psychology, the candidate must possess the essential

qualification of Post Graduate Degree in the respective subject from the University established by law or an equivalent Degree recognised by the Government and preferential qualification Diploma in L.T. or B.Ed. The petitioner No. 1 is M.A. in History and M.Ed. and petitioner No. 2 is M.Sc. in Chemistry and M.Ed. thus they are not postgraduate in Psychology subject as such they were not eligible to be considered for candidature for the post of Lecturer in Psychology.

The short controversy is that whether the degree of M.Ed. is equivalent to the postgraduate degree in psychology and the petitioners are entitled to be considered for the post of Lecturer in Government Intermediate Colleges in the State of Uttaranchal. Relevant Rule of U.P. Special Subordinate Education (Lecturers Grad) Service Rules, 1992 is quoted below:

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Now let us examine the argument of Annexure-14 is the copy of the letter dated 4th July 2005 sent by the Additional Director of Education to the Secretary, Public Service Commission. Extract of the said letter is quoted below:

*Sir,*

*In continuation to telephone talk held with you on 4.7.05 regarding recognised Educational Qualification/ Preferential qualification for Lecturer Government Inter Colleges Boy/Girls, the following information is being submitted.*

***According to Uttar Pradesh Special Subordinate Educational (Lecturer Cadre) Service Rule 1992.***

| Name of the post | Compulsory Qualification | Preferential Qualification |
|---|---|---|
| Lecturer Psychology | Post Graduate degree from any university in India established by law or any equivalent degree recognised by the Government | L.T. Diploma from Government or recognised training College or graduate degree in Eduation (B.Ed) from any University in India established by law. |



| Sl. No. | Name of Designation | Educational Training | Experience | Age | Preferential Qualification |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| 19. | Psycholgy Teacher Intermediate for (Class 11-12) | M.A. (Psychology) or M.Ed. | | | Trained |

Similar are the contents of the letter dated 27th July 2005, written by Sri S.K. Maheswari, Director, School Education, Uttaranchal.

Thus From the above letters it is clear that M.Ed. has been recognized as equivalent to M.A. in Psychology under U.P. Education Act. Although in U.P. Special Subordinate (Lecturer Cadre) Service Rule 1992, degree of M.Ed. has not been described as qualification for Lecturer of Psychology but the language used in relevant clause of compulsory education is *"Or any equivalent degree recognised by the Government."* The degree of M.Ed. has been recognized by the Government in U.P. Education Act as equivalent of M.A. (Psychology), which will be ipso facto applicable where such context appears either it is U.P. Special Subordinate (Lecturer Cadre) Service Rule 1992, or any other legislation.

Further in the prescribed syllabus for M.Ed. subjects Education Psychology and Philosophical and Sociological foundation for Education are being taught along with other subjects and that is why the degree of M.Ed. has been recognized equivalent to M.A. in psychology.

Consequently, a writ of certiorari is issued quashing the orders dated 1.8.2005, annexure 11 and 12 to the writ petition.

Further a writ a mandamus is issued directing the respondents No. 2 and 4 to consider the appointment of the petitioners on the posts of Lecture (Psychology) within a month, after obtaining certified copy of this order.

Accordingly, writ petition is allowed. No order as to costs.

Dated: March 30, 2006 **Rajesh Tandon, J.**

*Dhyani